U.S. Department of the Interior
Bureau of Land Management
Wyoming State Office

Rock Springs Field Office July 1999

Decision Record and Finding of No Significant Impact for Wild Horse Gathering Inside and Outside Wild Horse Herd Management Areas

MISSION STATEMENT

It is the mission of the Bureau of Land Management to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations.

BLM/WY/PL-99/020+1060

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Rock Springs Field Office
280 Highway 191 North
Rock Springs, Wyoming 82901-3448

1792/4710 (040)

July 14, 1999

Dear Reader:

Enclosed you will find the Decision Record and Finding of No Significant Impact which describes the Bureau of Land Management's decision for gathering wild horses in the Great Divide Basin, White Mountain, Salt Wells Creek, and Little Colorado Wild Horse Herd Management Areas and for the area outside herd management areas known as the North Baxter/Jack Morrow area.

Gathering and removal operations will be in accordance with the Capture Plan (Appendix A) and selective removal criteria outlined in Instruction Memorandum 99-053 (Appendix B). In addition, the environmental assessment was released for a 30-day comment period. BLM received 12 response letters and one oral comment. Appendix C provides a summary of comments received and BLM's response to the comments and Appendix D contains an errata sheet which further clarifies text in the environmental assessment.

BLM appreciates the public's participation during preparation of the environmental analysis. Copies of this Decision are available at the Rock Springs Field Office in Rock Springs and Wyoming State Office in Cheyenne. You may call Teri Deakins, at 307-352-0211, to request copies. If you have questions about gathering operations, please call Ron Hall at 307-352-0208.

Sincerely,

Stan McKee

Field Manager

This page intentionally left blank.

DECISION RECORD
FINDING OF NO SIGNIFICANT IMPACT

WILD HORSE GATHERING
INSIDE WILD HORSE HERD MANAGEMENT AREAS
AND
OUTSIDE WILD HORSE HERD MANAGEMENT AREAS

EA Number WY-040-EA9-041

Decision

It is my decision to approve the Proposed Action as described in the Wild Horse Gathering Inside and Outside Wild Horse Herd Management Areas Environmental Assessment (EA). Beginning July 15, 1999 and ending upon completion of the project, the Bureau of Land Management (BLM) will gather approximately 2,550 wild horses in order to remove approximately 1,750 wild horses from the White Mountain, Great Divide Basin, Little Colorado, and Salt Wells Creek Wild Horse Herd Management Areas (HMA) and approximately 143 wild horses from the North Baxter/Jack Morrow area. Because the North Baxter/Jack Morrow area is not within an established HMA, all wild horses are considered excess and subject to removal; those wild horses not selected for removal will be released into the Great Divide Basin HMA. Removal of excess wild horses will leave wild horse populations in, or close to, compliance with the 1981 District Court Order, and the Green River Resource Management Plan.

Wild horses above the Appropriate Management Levels (AMLs) identified in the Green River Resource Management Plan are considered excess and subject to gathering and removal. Excess wild horses will be gathered and removed according to the Capture Plan (Appendix A) and Instruction Memorandum 99-053 (Appendix B). Gathering operations are scheduled to begin no earlier than July 15, 1999 and will continue until AMLs are achieved (no spring gathering will take place however until analyzed).

Finding of No Significant Impact

Based on the environmental analysis in the EA, I have determined that the impacts to the quality of the human environment are not expected to be significant. Therefore, an environmental impact statement is not necessary.

Rationale for Decision

My decision to approve gathering and removal of excess wild horses is based upon the following:

> The Green River Resource Management Plan does not provide for maintaining populations of wild horses in the North Baxter/Jack Morrow area. Wild horses that stray from herd management areas are considered excess and are subject to gathering and removal. Gathering wild horses is in conformance with the land use plan.
>
> During the February 8, 1999 public meeting/hearing on the wild horse gathering program and the use of helicopters for gathering, no substantive reasons were provided for why gathering should not occur during the 1999 gathering period as described and analyzed in the EA. No comments were received that provided new information or indicated that the decision to follow the Capture Plan and use helicopters in gathering operations should be changed.

The March 1999 wild horse inventories and the projected post-1999 foaling populations indicate that wild horse numbers in the White Mountain, Great Divide Basin, Salt Wells Creek, and the Little Colorado HMAs are above the AMLs established in the land use plan. For this reason, all horses above the AMLs in the herd management areas are considered excess and subject to removal.

Based on the analysis in the EA, the impacts to the wild horses and to other resources will not be significant. The horses will be treated in a safe and humane manner. Safety risks to BLM employees or the contractor and the wild horses will be minimized through planned actions identified in the Capture Plan (see Appendix A) and Instruction Memorandum (Appendix B).

No substantive comments, those that provided supporting data, were received by BLM to warrant further environmental analysis or selection of the No Action Alternative. Appendix C provides a summary of public comments and BLM's responses. Appendix D provides an errata sheet which further clarifies text in the EA and Appendix E provides assumptions used for population modeling. A map reflecting wild horse HMAs and checkerboard lands can be found at the end of this document.

Compliance and Monitoring

Gathering and removal of excess wild horses will be conducted as described in Appendix A (Capture Plan) and in accordance with Instruction Memorandum 99-053 (Appendix B).

The BLM will continue to monitor wild horse numbers, utilization, and range condition to achieve the multiple use objectives in the grazing allotments within the wild horse herd management areas.

Appeal

This decision is issued full force and effect in accordance with 43 CFR 4770.3(a) which states in part: "decisions to remove...shall be effective upon issuance or on a date established in the decision." Once the decision is final, it will be subject to appeal. If you wish to appeal this decision, as provided by 43 CFR 4770.3 and 43 CFR 4.4, you must file an appeal in writing within 30 days of this decision with the Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming 82902. The appeal shall state clearly and concisely why you think the decision is in error.

Should you wish to file a motion for stay, the appellant shall show sufficient justification based on the following standards:

1) The relative harm to the parties if the stay is granted or denied;
2) The likelihood of the appellant's success on the merits;
3) The likelihood of immediate and irreparable harm if the stay is not granted; and
4) Whether the public interest favors granting the stay.

If you decide to also submit a petition for stay of the decision, a copy of the notice of appeal, statement of reasons, and petition for stay should be simultaneously filed with the Office of the Field Solicitor, Rocky Mountain Region, 755 Parfet Street, Suite 151, Lakewood, Colorado 80215.

Stan McKee — 7/14/99

Field Manager
Rock Springs Field Office

Date

APPENDIX A

WILD HORSE CAPTURE PLAN 1999
ROCK SPRINGS and RAWLINS FIELD OFFICES, WYOMING

Introduction

The purpose of this plan is to outline the methods and approaches to gathering 2,550 wild horses and removing approximately 1,750 from both private and BLM-administered lands in the Rock Springs Field Office area, and approximately 400 excess wild horses from both private and BLM-administered public lands in the Rawlins Field Office area. These wild horses will be gathered from inside four wild horse herd management areas (HMAs), and from an area located outside the HMAs known as the North Baxter/Jack Morrow Hills area in the Rock Springs Field Office area and from the area outside of HMAs south of Interstate 80 in the Rawlins Field Office area. Selective removal policy would apply and those wild horses not selected for removal would be released in the Great Divide Basin HMA (Rock Springs Field Office area) or the Adobe Town HMA (Rawlins Field Office area).

BLM Committed Measures

Cultural resource clearances would be conducted prior to actual gathering operations. BLM Archeologist would be notified if any cultural resources are discovered during gathering operations. Appropriate action would be determined at that time.

Trap sites would be surveyed and cleared for threatened, endangered, candidate, and sensitive plant and animal species prior to construction.

Removal operations would be in accordance with selective removal guidelines. However, implementing selective removal criteria would not be applied if the sex ratio is skewed to the point where herd viability is affected.

Gathering operations would avoid active raptor nests.

Trap sites would not be located on or near sage grouse habitat during breeding or nesting periods.

Trap sites would not be constructed in riparian or wetland areas.

Traps would not be constructed in Wilderness Study Areas.

Existing roads and trails would be used. No roads would be constructed.

Operations would not occur when it is so wet that resource damage would occur. Should resource damage occur while conducting gathering operations, it would be reclaimed in accordance with BLM reclamation procedures.

If needed, only certified weed-free hay would be used during gathering operations.

Blood samples of some released wild horses in each HMA will be collected for typing and DNA analysis. This baseline data will be compared against samples collected every 5 years to determine if population sizes are effective.

Capture Methods

Helicopter Drive trapping will be the primary capture method. Throughout the years, this has proven to be a safe, effective, and humane method of gathering wild horses. This technique has been in use in Wyoming since June 1, 1977. Use of helicopters is in conformance with Section

9 of Public Law 92-195 which states "...the Secretary may use or contract for the use of helicopters or, for the purpose of transporting captured animals, motor vehicles...such use shall be undertaken only after a public hearing...." A public hearing took place February 8, 1999.

Selective Removal of wild horses will be based on current Selective Removal Policy as established in Instruction Memorandum 99-053 (see Appendix C). Horses 5 years old and under will be selected from inside HMAs for removal. Once the AML is achieved the balance of the younger horses along with those not selected for removal would be returned to their respective HMAs.

Wild horses gathered from outside HMAs would be selected based on the following criteria:

Age 0-9 Female - remove all for adoption.
Age 0-7 Males - remove all for adoption.
Age 10+ Mares - release all as specified in EA.
Age 08+ Studs - release all as specified in EA.

All wild horses aged 5 and under would be placed in the adoption system. Horses aged 6 and over would be placed in training and then into the adoption system.

Herding and Stress Reduction Procedures

Wild horses will not be herded over a distance of 10 miles. This distance may be reduced by the Authorized Officer after consideration of temperature, topography, soil type/condition, horse condition, or other pertinent factors. When trap locations are selected, they are placed in as close proximity to the horses as is practical. For this reason, it is imperative that actual trap site locations remain flexible to accommodate horse distribution.

Horses will be allowed to choose their own rate of travel, and the helicopter pilot will stay well away from the animals while maintaining visual contact. As the trap is approached, pressure from the helicopter will increase. When the horses are in the wings or near the mouth of the wings a "parada horse" will be released to lead them to the trap. Concurrent with this action, wranglers will follow the horses and encourage them into the trap and close the gate. Several herding runs may be made in a day.

A visual barrier of plastic snowfence will be placed on all gates and pens. This helps reduce the possibility of injury and, the visual barrier tends to settle the horses down in the pens.

Sorting in a trap will be minimized to the extent possible. Foals under 6 weeks old will be sorted off and hauled separately, then reunited with their mothers at the holding facility. If horses are sorted in the field, the field sorting/holding facility may be one of the traps. In this case, the horses would be sorted by sex and age and the release horses would be held until the gather in the area is completed before they would be released. If the horses are not sorted in the field, they would be hauled to the Rock Springs holding/preparation facility for sorting and later hauled back to their respective HMA. In the case release horses gathered outside of the HMAs, they would be released into the Great Divide Basin HMA (Rock Springs Field Office) or Adobe Town HMA (Rawlins Field Office). As outlined in the proposed action, the Great Divide HMA would be reduced 40 head below the low range of AML to accommodate this action.

While herding bands having small foals, extra care will be exercised and operations monitored. At anytime a mare and foal start to fall behind the band, the mare and foal will be dropped. If the mare refuses to leave the band to stay with her foal, then the band will be left. If a foal becomes separated from its mother, every effort will be made to assure either capture or otherwise rejoining of the mare and foal.

Roping

The primary method for gathering wild horses in Wyoming is helicopter drive trapping. Roping may be used occasionally as a supplemental gathering technique under certain circumstances such as when a mare is captured but the foal is left behind, when a young horse refuses to enter the trap, or when there are escaped horses in an area of total removal (outside an HMA). In cases where more than occasional roping is anticipated, roping would proceed after consultation with the Field Manager.

Trap Sites

Established trap sites will normally be used. New trap sites will be established as deemed appropriate and surveyed for cultural values, and endangered, threatened, or sensitive plants and animals before the trap is constructed. Traps will be located away from active raptor nests and will not be constructed when soils are so saturated that resource damage would occur. In the event that resource damage does occur, it would be reclaimed. Traps will not be constructed in riparian areas or wilderness study areas. No new roads would be constructed and vehicle traffic would normally be restricted to existing roads and trails.

Trap Construction

Normally, traps will be constructed using 6-foot steel panels in 10- to 12-foot lengths. Three main catch/holding pens are normally constructed. A small pen separate from the main holding pens will be constructed to hold small foals or other animals with special handling requirements. Variations in trap design may be necessary based on site-specific requirements. Slide wooden gates are used in the loading alley to prevent injury. A portable loading chute will be used to load horses onto trucks. Trailers will be loaded by attaching panels to the existing loading alley for a trailer load area.

Wings will extend out from the trap for a variable distance depending upon the trap site. Normally, wings extend out from the trap 100 to 200 yards and are up to 100 yards in width at the mouth of the wings. A burlap like material called “jute” is suspended from steel fence posts placed 20 to 25 feet apart and provides the necessary visual barrier to direct the wild horses into the trap.

Fences or Other Hazards to Wild Horses

Although fences are not a major problem, they may be encountered during gathering operations. The pilot will be briefed and provided a map, in accordance with the aviation safety plan, showing all fence or other hazard locations (e.g., cliffs, steep washes, unfenced highway corridors, etc.) that could pose problems. The contract pilot currently in use in Rock Springs has approximately 20 years of herding experience in this area and is familiar with most fences and other hazards. If it should become necessary to move horses through fences to a trap, at least 30 feet of fence (or a fence gate if available) will be laid back and jute, black plastic, or other material that provides a visual barrier will be placed on each side where the wire is laid back. A small wing of jute will be placed out from the fence as is necessary to guide the horses through the fence.

Transportation

Straight deck stock trailers (semi), stock trucks, and horse trailers will be used to transport the horses from the trap site to a central holding facility. Contract trucks/trailers that are routinely used to haul wild horses may be used as needed. All equipment will be inspected prior to use and will be in good condition. Wood shavings will be used on flooring to help provide secure footing. All trailers and stock trucks will be loaded loose enough to ensure that if a horse should fall it will have enough room to regain its footing.

If the capacity of the Rock Springs facility is reached and additional adoptable horses need to be prepared (i.e. freeze marked, vaccinated, wormed and a Coggins Test for EIA), they may be shipped to the cooperating facility for preparation. This would require a wavier from the state veterinarian of the receiving state. The facility would be BLM-managed and routinely involved in the preparation and shipment of wild horses. Only wild horses aged 5 and under will be shipped to cooperating facilities. If horses are sorted in the field, then adoptable horses may be shipped directly from the field to a cooperating preparation/holding facility. If the horses are sorted at the Rock Springs facility, the horses selected for release will be hauled back to their respective HMAs and released upon completion of the gather in a specific HMA. As necessary, adoptable horses will then be shipped from Rock Springs to the cooperating facility as the capacity of the Rock Springs facility is reached.

Prepared animals may be transported to other approved facilities for temporary holding.

Corral Capacity

The capacity of the Rock Springs preparation/holding facility is 500 wild horses. To achieve the objectives of the proposed action, it may be necessary to use other preparation/holding facilities (i.e., Salt Lake City) as indicated. In addition, adoptable horses that are ready for adoption, (i.e., freeze marked, negative Coggins test, primary and booster vaccinations, and wormed) will need to be shipped east for adoption.

Sorting/Release of Non-selected Wild Horses

All captured wild horses to be removed will be screened against current guidelines under the selective removal policy. Any horses that must be returned to the range will be returned to the HMA from which they were captured, or in the case of wild horses captured from outside HMAs (North Baxter/Jack Morrow Hills or area south of I-80) would be returned to the Great Divide Basin HMA or Adobe Town HMA (or other nearby HMA). Young wild horses, 5 years and younger, not selected for removal would be returned to their respective HMA.

Sorting may be done at a field sorting/holding facility constructed in the HMA or at the Rock Springs holding/preparation facility. Horses would be sorted by age and sex in accordance with the selective removal criteria.

Humane Destruction and Disposal

Any wild horse requiring destruction, as determined by the Authorized Officer, would be destroyed and disposed of in accordance with Instruction Memorandum 98-141. Humane destruction of wild horses is provided for in the Wild and Free-Roaming Horse and Burro Act, as amended, Section 3 (b) 2 (A), 43 CFR 4730.1, and BLM Manual 4730 (*Destruction of Wild Horses and Burros and Disposal of their Remains*).

Branded and Claimed Horses

Branded and/or claimed horses will be transported to the preparation/holding facility at Rock Springs. Ownership would be determined under the estray laws of the State of Wyoming by a Wyoming Brand Inspector. Collection of gather fees and any appropriate trespass charges would be collected at the time of change of possession.

Gathering Areas

Gathering will begin no earlier than July 15, 1999, 45 days after the peak of foaling.

Great Divide Basin

Remove 306 excess wild horses. Includes 40 head below low point AML to accommodate release of non-selective horses from outside HMA horses. This will leave this HMA at the low point of AML.

The Great Divide Basin HMA covers approximately 772,915 acres including the Red Desert Basin north of Interstate 80.

The southern 75 percent of the HMA has 1-80 as its southern boundary and is mostly unfenced "checkerboard" lands. The northern 25 percent of the HMA is mostly solid block public lands with minor amounts of intermingled State and private lands. The northern boundary, along the Sweetwater River, is fenced. The western boundary is the unfenced west branch of the Continental Divide. The eastern boundary is the fenced boundary between the BLM Rock Springs and Rawlins Field Office areas.

The appropriate management level (AML) established for wild horses in the Great Divide Basin wild horse herd management area and agreed to by private landowners is set at 500 horses (415 - 600). BLM conducted aerial monitoring during March 1999 and counted 568 wild horses in the HMA. After the 1999 foaling season, the population is projected to be approximately 681 head. Exact locations of traps will depend, in part, on where the horses are when gathering is conducted. Captured, unadoptable horses will be returned to the HMA in accordance with the current Selective Removal Policy. Approximately 40 horses gathered in the North Baxter/Jack Morrow Hills area, and not selected for removal, would be released in the Great Divide Basin HMA.

Permanent trap locations that may be used include:

12-Mile located in the SE1/4, section 28, T. 22 N., R. 100 W.
Rasmussen located in the NW1/4, section 17 T. 24 N., R. 98 W.

The 12-Mile trap is on checkerboard lands. The Rasmussen trap is north of the checkerboard lands. A total of six traps may be necessary depending on distribution and concentration of wild horses at the time of gathering and may be located in areas other than those described above.

Salt Wells Creek

Remove 690 excess wild horses. This will leave this HMA approximately 100 head above high point of AML. The Fort LaClede and Titsworth Gap areas are where gathering operations will be concentrated. The Salt Wells Creek herd management area covers approximately 1,193,283 acres south of Interstate 80. BLM counted 882 wild horses in this HMA in March of 1999 but estimate the population at 959. The 1999 post-foaling population is estimated at 1,151 wild horses. If every horse aged 5 and under is removed from this HMA, the low range of the AML will not be reached.

Permanent trap locations that may be used include:

Fort LaClede located in SWNE, Section 23, T. 17 N., R. 97 W.
Fort LaClede #2 located in SESE, Section 17, T. 16 N., R. 97 W.
Haystack located in SWNE, Section 27, T. 17 N., R. 96 W.
Titsworth Gap located in SWSW, Section 23, T. 15 N,. R. 104 W.
Gap Creek located in NWSE, Section 31, T. 14 N., R. 103 W.
Elk Butte located in SESW, Section 7, T. 14 N., R. 102 W.

A total of 8 traps may be necessary depending on distribution and concentrations of wild horses at the time of gathering and may be located in areas other than those described above.

White Mountain

Remove 289 excess wild horses. This herd will be at low point of AML, and some younger animals will be released.

The White Mountain HMA covers approximately 392,649 acres. It is a significant wild horse viewing area, since the horses are readily seen from Highway 191. The southern two-thirds of the HMA contains a large portion of checkerboard lands. The northern portion is primarily solid block public lands bordering the Eden Valley irrigation project (which along with the Big Sandy River, forms the northern boundary). The southern boundary (I-80), and the eastern boundary (Highway 191) are fenced. The western boundary is the Green River and is partially fenced.

The wild horse population in this herd management area has generally been maintained at the agreed appropriate management level of 250 since 1981 with some cyclic fluctuations. Gathers have been conducted since that time to maintain the wild horse population within the AML of 205 and 300. Wild horses will be selected for removal based on the Herd Management Area Plan and current Selective Removal Policy. The lower end of the AML will be achieved if most 5 years and under wild horses are removed.

Permanent trap sites that may be used include:

Skunk Canyon located in NWNE, Section 11, T. 20 N., R. 107 W.
Starvation Wash located in SWSW, Section 17, T. 22 N., R. 107 W.
Stage Coach Draw located in NESE, Section 12, T. 23 N., R. 107 W.
Alkali Draw located in NENE, Section 10, T. 21 N., R. 106 W.
Green Canyon located in SESE, Section 26, T. 19 N., R. 107 W.

A total of 6 traps may be necessary depending on distribution and concentrations of wild horses at the time of gathering and may be located in areas other than those described above.

Little Colorado

Remove 113 excess wild horses. This will leave this HMA near the low point of AML. The Little Colorado HMA contains 519,541 acres and the eastern boundary follows Highway 191; the southern boundary follows the Big Sandy River west of Farson; the western boundary is the Green River; and the Field Office area boundary makes up the northern boundary. The AML range is between 69 and 100 head. Existing population numbers are estimated from the 1998 census. Captured unadoptable horses will be returned to this area in accordance with the current BLM selective removal policy.

Permanent trap sites that may be used include:

12-Mile Canyon located in NWSW, Section 2, T. 24 N., R. 109 W.
18-Mile Canyon located in NWNW, Section 3, T. 25 N., R. 109 W.
Cut-Off Road located in SESE, Section 14, T. 25 N., R. 109 W.
East Buckhorn located in NWNE, Section 14, T. 26 N., R. 110 W.

A total of 4 trap sites may be necessary depending on distribution and concentrations of wild horses at the time of gathering and may be located in areas other than those described above.

North Baxter/Jack Morrow Hills Area

Capture 183 wild horses. Approximately 40 older horses will be released in the Great Divide Basin HMA.

The North Baxter/Jack Morrow Hills area is outside any wild horse herd management areas. It lies north of Interstate 80 and is bounded on the west by Highway 191, north by Highway 28, and on the east by the western boundary of the Great Divide Basin wild horse herd management area. The March 1999 inventory counted 143 wild horses and estimated the number at 152. The projected post foaling 1999 population is 183. Total removal of all wild horses from the North Baxter/Jack Morrow Hills area will be attempted.

The following traps sites have been used in the past and may be used again include:

North Baxter located in NENE, Section 17, T. 20 N., R. 103 W.
North Baxter II located in SENE, Section 21, T. 20 N., R. 103 W.
North Pack Saddle located in NESE, Section 2, T. 25 N., R. 103 W.
Jack Morrow located in NENE, Section 32, T. 25 N., R. 102 W.

A total of 4 traps may be necessary depending on distribution and concentrations of wild horses at the time of gathering and may be located in areas other than those described above.

South of Interstate 80 (Rawlins Field Office)

Remove approximately 400 wild horses. Approximately 90 older horses would be released into the Adobe Town HMAs.

This area is outside any HMAs. It lies south of Interstate-80 and is bounded on the west by Highway 789, on the east by Adobe Town and Salt Wells Creek HMAs. The February 1999 inventory counted 332 wild horses. Total removal of all wild horses from this area will be attempted. At least 10 trap sites will be necessary and more trap sites will likely be needed.

The following trap sites have been used in the past and may be used again include:

East Delany located in the SESE, Section 24, T. 18 N., R. 95 W.

Other traps may be placed at or near the following areas:

Coal Bank Lake, near Section 32, T. 18 N., R. 93 W.
Windmill Draw, near Section 26, T. 16 N., R. 94 W.
North Flat Top, near Section 1, T. 14 N., R. 93 W.
South Flat Top, near Section 9, T. 13 N., R. 92 W.
Pasture C, near Section 33, T. 13 N., R. 93 W.
Cherokee, near Section 36, T. 13 N., R. 95 W.
Ruedloff, near Section 35, T. 13 N., R. 96 W.

Other trap site locations may be necessary.

Handling Methods

Contract vs In-House

The horses will either be gathered with a contract crew, or an in-house BLM crew, or a combination of the two. Techniques and methods are essentially the same.

BLM Crew-Sorting Rock Springs

Employees: There will be one wrangler foreman and three wranglers most of the time. The wranglers will also serve as truck drivers. Some situations may call for additional personnel.

Methods: The daily capture will not normally exceed the number of wild horses that can be transported to Rock Springs preparation/holding facility. Additional contract trucks will be hired as needed. Wild horses will not be left in a trap overnight unless an emergency occurs. (e.g., truck breakdown, muddy roads, or other factors). The daily capture is carefully coordinated with available transport capability. The helicopter will be under contract to BLM and the pilot will provide a fuel truck and driver.

BLM Crew-Sorting in the Field

Employees: There will be one wrangler foreman and five wranglers most of the time. The wranglers will also serve as truck drivers for BLM equipment. Contract trucks will be hired as necessary. Operations will be seven days a week, most of the time. The additional personnel may be needed to field sort, and to water, feed and care for the horses.

Methods: A central holding facility will be constructed in the gather area. This facility will be used to sort horses, hold release horses, and hold adoptable horses pending shipment to a preparation/holding facility. The capability of providing feed and water is a necessity.

After a specific gather area is finished, the horses selected for release will be released from the facility. If natural barriers or other impediments might restrict the horses from returning to their "home range", then the horses will be transported for release.

Equipment

BLM: A semi-tractor and straight trailer with a capacity of 30 to 33 horses will be used. A stock truck, with a maximum of 14 head, will also be used. A one-ton flatbed truck and two-compartment 26-foot horse trailer can haul four saddle horses and up to six separated wild horses. This equipment will be used on most gathers. Other equipment may be used as needed.

Contract Crew Personnel: Normally, a contract crew is composed of a lead wrangler, up to 6 wranglers, a supervisor, and a helicopter pilot and fuel truck driver. Contracts are in place within BLM utilizing two different gather contractors. At the present time, Wyoming is not included under this contract. A contract modification would be necessary to include Wyoming, before a contractor could be used.

Veterinarian Services

A veterinarian will not normally be at the trap sites or field-built sorting facilities. Three contract veterinarians are available in Rock Springs and will be on call, should the need arise. The horses that are transported to Rock Springs for adoption or sorting are inspected by a veterinarian within 24 hours of the arrival. Should the need for a veterinarian arise before this time, they are locally available and will be called to assist or provide advice.

Public Interest

There may be filming by professional filming crews and photographers at trap sites. The Field Office Public Affairs Specialist or other BLM employees will assist in the control of these groups to ensure that they do not add unnecessary stress to the horses or interfere with the gathering operations. Other requests will be considered as they are received. All media and other visitors will be expected to comply with the directions of a BLM employee assigned to this task.

Safety

All Rock Springs Field Office wild horse gathering safety procedures will be followed.

Aviation special use plan and U.S. Department of the Interior Office of Aircraft Service (OAS) Operational Procedures Memoranda will be followed. All flights will be in accordance with BLM aviation policy.

Passengers will not be allowed in the helicopter during gathering. Transport of other than BLM personnel, at other times, is strictly prohibited.

Only skilled, experienced personnel would be involved in the gathering operations, handling, and transportation of the horses.

This page intentionally left blank.

APPENDIX B

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240
http:/www.blm.gov

February 3, 1999

In Reply Refer To:
4710.3, 4730 (260) P
Ref. IM No. 98-141

EMS TRANSMISSION 02/04/99
Instruction Memorandum No. 99-053
Expires: 9/30/00

To: All Field Offices (except Alaska)

From: Assistant Director, Renewable Resources and Planning

Subject: Selective Removal Criteria for Wild Horse and Burro Gathers

Since 1992, the Bureau of Land Management (BLM) has applied a policy of selective removal criteria for wild horses and burros being gathered from public lands. This policy has been reviewed and revised each year in an effort to balance the need to achieve appropriate management levels, minimize the time excess wild horses and burros are held in BLM facilities awaiting adoption and enhance our ability to place those animals into private maintenance and care.

The selective removal criteria from Fiscal Years 1992 through 1995 allow the removal of animals 5 years of age and younger. In 1996, because of drought conditions in many western states, the selective removal policy was changed to allow for the removal of animals 9 years of age and younger. Fiscal Years 1997 and 1998 saw a decline in our ability to place sufficient numbers of animals into private care in order to achieve our goal of reaching appropriate management levels. Numerous factors have accounted for this decline in adoption levels. However, one of the greatest obstacles has been, and continues to be, the reluctance of the public to adopt older wild horses.

We are expanding our efforts to improve our ability to adopt older animals through gelding, gentling, training and improved marketing. Until these proposed enhancements are fully implemented and show positive results, selective removal criteria will be strictly applied for identifying which animals will be placed into the adoption program. Any wild horses received in any of the preparation facilities that do not meet these criteria may be returned to the field office from which they were shipped.

The following selective removal criteria is in effect for all wild horses to be placed into BLM's Adopt-A-Wild-Horse and Burro Program during the Fiscal Year 1999 gathering season:

A. All wild horses or burros, regardless of age, that are deemed 'unadoptable' by the authorized officer due to disease, serious congenital defect, physical defects due to previous injuries, recent, but not life threatening injuries, or other factors that may prevent adoption, will be returned to the public lands or adopted in-state. If the animal meets the criteria for humane destruction set forth in Washington Office Instruction Memorandum No. 98-141, it will be euthanized in accordance with this policy.

B. All wild horses removed from within herd areas (HAs) or herd management areas (HMAs) for placement in the national adoption program will meet one of the following criteria:

- Wild horses aged 5 years and younger may be removed and placed into the national adoption program from gathers proposed to achieve or maintain appropriate management levels,

- Wild horses aged 6 to 9 years may be removed by the Field Offices and placed into the national adoption program provided that all geldings and mares have received gentling or training to improve their ability to be adopted. States will coordinate with the WO-260 on establishing training contracts for these animals prior to scheduling their gathering.

- Wild horses aged 6 years and older that will not be gentled or receive training to enhance their chances of adoption may be removed at the discretion of the Field Offices provided that: 1) they can be adopted within the Field Office's State of jurisdiction, 2) they can be adopted within that office's or state's budgetary capabilities, and, 3) they will not be maintained in holding facilities for an extended period of time,

These criteria do not apply to wild burros because age has not been a significant inhibiting factor in placing them into private care.

C. When animals must be removed in response to emergency environmental conditions, the selective removal criteria may be amended with prior written approval of the WO-260. The state where the emergency situation exists will immediately contact the WO-260 to jointly develop criteria or removal for the animals, resolve the emergency and address final disposition of all removed animals.

D. The criteria listed above in section B will be applied to animals removed in every instance where all animals must be immediately removed from private property as requested by the landowner (nuisance) or where approved land use plan decisions mandate removing all animals from an HA/HMA.

The wild horse and burro selective removal criteria identified in this policy will be effective for all gathers beginning on or after October 1, 1998, as set forth in the FY99 PAWP directives.

Questions concerning this policy should be directed to Tom Pogacnik or Lili Thomas of the Wild Horse and Burro National Program Office at (775) 861-6583.

Signed by:
Tom Walker
Acting Assistant Director
Renewable Resource and Planning

Authenticated by:
Robert M. Williams
Directives, Records
& Internet Group,WO540

This page intentionally left blank.

APPENDIX C

PUBLIC COMMENTS/BLM RESPONSES

BLM received 12 comment letters and one oral comment in response to the EA. BLM has summarized comments and provided a response (in italics) to them. They appear below.

BLM received four comment letters and one oral comment in support of the Proposed Action from: Ms. Mary Thoman, Thoman Ranch; Mr. Lee Jons; Professor Michael Smith, University of Wyoming; Mr. John Jolley, Grassroots Advocate; and Ms. Jo Suftko, Rock Springs Chamber of Commerce.

Wyoming Game and Fish Department (WGFD)

Support achieving and maintaining AML in HMAs but have a concern about relocation of unadoptable horses into HMAs that are not below AML. Concerned that some horses would be released into the Adobe Town HMA which is, according to records, already over AML. Adequate habitat management of BLM lands occupied by wild horses depends on managing potentially damaging effects, and staying ahead of population increases of this fast-reproducing animal.

> *BLM is required to follow the selective removal policy as outlined in Instruction Memorandum 99-053. BLM must follow current policy because both our Congressional and Internal auditors have said that we should stop routinely removing unadoptable wild horses. The auditors have said that the associated long-term expenses for both travel to adoption and after adoption for horses that are not adopted, and the costs associated with the sanctuaries where most of these unadoptable horses end up is unjustified." BLM has no choice but to place these type horses back into adjacent herd management areas.*

Wyoming State Grazing Board (WSGB)

The WSGB supports selection of the Proposed Action to remove excess wild horses. Other comments applicable to the EA include:

Do not support the proposal to leave 100 horses over AML (appropriate management level) in the Salt Wells HMA. These 100 horses should also be removed.

> *See response to comment from Wyoming Game and Fish Department concerning selective removal.*

We realize that BLM is required to follow existing BLM policies but the WSGB does not support the current selective removal policy (IM99-053) to remove only the most adoptable horses. All horses above AML should be removed from HMAs during roundups.

> *See response to comment from Wyoming Game and Fish Department concerning selective removal.*

Page 15 of the EA, we do not agree that private lands that contribute to the checkerboard land pattern should be characterized as a "special problem" for managing wild horses. It is the presence of horses on private lands inside the checkerboard areas that is creating "special problems" for owners of private lands, not the other way around.

> *In an area of checkerboard pattern of land ownership, it presents challenges for both the private land owner and the agency charged with managing public lands. BLM's goal is to work with and accommodate the private landowner to the extent possible. Management of wild horses is the responsibility of the BLM, and it does present special problems for BLM where private lands are intermingled with public lands. BLM acknowledges the concerns of private land owners.*

Do not agree with the first item listed as "Possible Mitigation Measures" on page 24, is in fact "possible" for consideration under current laws. This first item should be removed from this EA because the BLM is precluded from taking this action under current law. As a result, BLM is precluded from considering this item as a "possible" mitigation.

This particular possible mitigation measure was identified during analysis of the No Action Alternative and would not apply to this decision to implement the Proposed Action. BLM does have the authority to regulate grazing on public lands.

Animal Protection Institute (API)

Cannot support BLM's proposed gathers in the Rock Springs District (Field Office area) because the EA fails to:

Provide sufficient biological evidence to support contention that wild horses are overpopulated and/or causing habitat degradation; and
Relies on inappropriate and outdated AMLs.

BLM failed to produce sufficient biological evidence to support conclusions in the EA. The EA doesn't contain detailed information on the current state of wild horse populations, documentation of reported age/sex ratios, health of the range, population estimates of wildlife, number of domestic livestock, and cannot fully assess the environmental consequences of the Proposed Action or the No Action Alternatives.

Table 1 on page 2 of the EA provides current population numbers, estimated post- foaling population estimates, and excess wild horses over AML. The type of information that you are requesting to be included in the EA is more relevant to the establishment of the AMLs. Establishment of AMLs was done via the land use planning process and is not part of the Proposed Action and therefore, outside the scope of this analysis. BLM maintains records on rangeland monitoring, permitted livestock grazing (by permittee or grazing allotment and not by wild horse herd management area), wild horses including age and sex; the WGFD is charged with maintaining records on wildlife population numbers. The WGFD does not maintain wildlife data specific to wild horse herd management areas. BLM provided the best available information in the EA.

The EA relies on the number of wild horses currently living on the range (Table 1). No confidence intervals are included, no discussion of how these numbers were derived (seasons, duration of counts, methodologies, raw counts, and modifiers).

BLM has conducted annual winter aerial censuses in all the HMAs and outside HMA areas where horses are known to occur, since 1971. This data is on record at the Rock Springs Field Office. Due to the large size, multi-coloration, social organization, and open habitat preference of wild horses, the BLM attempts to count every horse (total census). No correction factor is applied to the annual census. BLM conducted aerial surveys in March 1999 in most of the HMAs. However, severe weather and budget shortfalls prevented BLM from completing aerial surveys in the Little Colorado and the Great Divide Basin HMAs as described in footnotes 2 and 3 of Table 1. Under normal conditions, annual population growth of wild horses in the Rock Springs Field Office area has proved to be approximately 20 percent. Thus, in those HMAs that were not surveyed, BLM estimated population numbers based on the 20 percent growth rate and applied it to the previous year's census. BLM used the best available information to calculate wild horse populations.

Age and sex ratios provided for in the EA were prepared without supporting data. Age/sex ratios are nearly impossible to determine from aerial surveys and must be determined through ground surveys. No mention of ground surveys in the EA.

Age/sex ratios are determined during gathering operations as the horses are processed. Age determines whether the wild horse will be removed for adoption. These records are maintained by BLM at the field office. Ground surveys are also inherently inaccurate, particularly for younger animals.

The EA suggests that range degradation and competition with wildlife and domestic livestock will occur if wild horse populations are not reduced to AML. We can not assess the merits of this conclusion since current range conditions, or estimates of wildlife populations and numbers of livestock currently grazing are not provided. The EA states (page 13) "potential for competition is minimized by maintaining wild horse populations at AML and evidence suggests the relationship might be symbiotic…This, however, would turn to competition if horse numbers are over AML." Two points must be made: the statement does not appear to be made on quantitative studies, only on speculation; and BLM is suggesting the AML is roughly equivalent to the ability of the land to support specific numbers of wild horses when compared to other wildlife species. By BLM's own admission, AMLs in question were determined politically, and are not biologically based. This is misleading to discuss them in conjunction with ecological parameters.

In consideration of many factors (e.g., private landowner's desires, wild horse advocacy group's recommendations , District Court Order, carrying capacity of the range, multiple use mandates, WGFD wildlife population objectives, etc.), BLM set AMLs for the HMAs which were reaffirmed or established in the Green River Resource Management Plan. No comments were made by the public during the planning process with regard to these numbers. Therefore, changes in the AML are beyond the scope of this analysis. The Proposed Action focused on the impacts of removing excess wild horses to achieve AML in conformance with the land use plan just as the No Action Alternative looked at the impacts of not removing excess wild horses.

Although BLM asserts AMLs are beyond the scope of this analysis, we believe it is at the very center of the issue. The designation of AML for 3 of the 4 HMAs took place in 1981, nearly 19 years ago and is inappropriate as a determinant of the allowable number of wild horses in 1999.

The current AMLs were re-affirmed in the land use plan less than two years ago as sufficient to comply with the legal mandate to manage viable populations of wild horses in concert with other multiple use mandates and to achieve a thriving ecological balance. For evidence of viability, one only need to look at the number of excess wild horses to see that the herds are indeed viable. The public did not identify needed changes to the AMLs during the land use planning process. BLM also notes that significant portions of three HMAs lie within checkerboard lands and that AMLs established in 1981 were associated with a District Court Order which stated in effect that all wild horses were to be removed from checkerboard lands except the number that the Rock Springs Grazing Association (RSGA, private landowner) agreed to leave in the area. The RSGA has agreed to allow wild horses on their private lands as long as they are maintained at AML and has been a willing and cooperative partner in the management of wild horses in the Rock Springs Field Office area. The alternative could be to remove all wild horses from checkerboard land.

The EA concludes that excess wild horses be gathered to preserve the ecological integrity of the range but is contradicted in the EA. Page 12 states the Salt Wells and Adobe Town HMAs have a "low wild horse density." Rather than supporting the need for gathers, the statement suggests that the AML for this area is no longer applicable and should be reconsidered. API argues that BLM must revisit the designation of AMLs for the Rock Springs HMAs. Recent advances in the fields of population modeling and genetics provide more comprehensive understanding of wild horse populations. New techniques can more accurately determine how many horses, wildlife, and domestic livestock can live on this land. We recommend U.S. Geological Survey-Biological Resource Division (a federal agency) undertake this effort.

The paragraph to which the respondent refers identifies problems with achieving AML in the Salt Wells HMA including the size of the HMA, the large number of wild horses in certain areas and very few in other areas, selective removal criteria, etc. The commentor appears to assume that the horses are evenly distributed throughout this very large HMA. They are not. In fact, there are three concentration areas where horses can always be found. The intent of the statement was to demonstrate that in lightly populated areas of the HMA, removal of a few animals would be inefficient and would therefore complicate the removal of horses to AML in the short term. The paragraph in no way suggests that the AML should be changed. Again, AMLs have been re-affirmed or established via the land use planning process and it is not within the scope of this analysis to analyze changes to AMLs. BLM is trying to maintain healthy rangelands that can support a variety of uses including viable wild horse herds, wildlife habitat, livestock grazing, productive watersheds, and production of resources for the benefit of the American public.

BLM has sponsored a great deal of research in the past, and is currently involved in a number of research projects with universities and the U.S. Geological Survey-Biological Resource Division. BLM sponsored the Wild Horse and Burro Population Viability Forum recently held in Fort Collins, Colorado. Several of the authors attended the forum and considered the information presented there in preparation of the EA. BLM is aware of and uses this research in its wild horse management activities and is continually looking for areas where additional research is needed. However, scientific research specific to each and every herd management area is not available or necessary for proper management of the herd.

API acknowledges that some growing wild horse populations could have deleterious impacts on their habitat and in such cases, gathers may be necessary to mitigate this impact. However, BLM's responsibility to provide sound scientific data documenting the increase in wild horse numbers and their impact on vegetation and wildlife. Because of the lack of scientific data in the EA, API is unable to assess the impact of the proposed action and thus must determine whether an environmental impact statement is needed. Accordingly, we are forced to oppose the proposed gather at this time. API requests the that BLM revise the EA to address API's concerns and those of other advocacy groups. Once this information is released, API will reassess our position on these gathers.

BLM appreciates that the respondent recognizes the severe impacts of allowing wild horse populations to grow unchecked. BLM determined during the land use planning process that managing wild horse populations at AML would produce no negative impacts to wild horse habitat in concert with other uses of the public lands. BLM has documented the reported increase in wild horse numbers and believes that the numbers used are scientifically sound. The BLM's commitment to the public in the land use plan is to manage for wild horse populations at established AMLs. BLM used the best available information in writing this EA and feels that the concerns raised during public scoping have been addressed in the analysis, that enough information has been provided to make an informed decision, and that an environmental impact statement is not necessary. BLM has continued to monitor HMAs since the signing of the land use plan in 1997. This Monitoring has not shown a need to change AMLs. If the respondent has scientific data to challenge the information provided by BLM in this analysis, BLM encourages the respondent to submit it for our review.

Doris Day Animal League

Of crucial importance is the reliance of BLM assumptions and activities relating to wild horse management and gathering, including determination of the AML of horses to be left on checkerboard land, on a 1981 Order from the District Court of Wyoming which is no longer valid. The Order specifically instructs BLM to remove all "excess" wild horses from within the Rock Springs District within two years of the Order's issuance, and gives great powers to the

Rock Springs Grazing Association in determining the number of horses to be left on the range, it does not authorize removals after that two year time limit expires. The agency's reliance on this expired Court Order is therefore legally questionable.

BLM disagrees with the respondent's interpretation of the 1981 District Court Order. BLM maintains that the District Court gave BLM two years to comply with the Order. Significant portions of three HMAs overlap the checkerboard (private land) and many hours of negotiation with both the private landowners and wild horse advocacy groups took place to reach consensus for AMLs in HMAs containing checkerboard lands. AMLs were re-affirmed or established during the land use planning process approved in August 1997. The scope of this analysis is implementing actions contained in the land use plan which is the safe removal of wild horses determined to be in excess of the AML.

On page 12 of the EA, it states "low wild horse density" and "large size of the HMA" are cited as reasons for BLM's consistent inability to reach AML in the Rock Springs HMAs (according to the EA, the proposed horse : acreage varies between the HMAs. The lowest ratio is 1 horse : 5,195 acres in Little Colorado while the highest is 1 horse : 1,595 acres in the Great Divide Basin). If the wild horse population is so low that the animals are hard to find and capture, one would assume that the AMLs are no longer valid and need to be adjusted. However, elsewhere in the EA, BLM states that it is bound by the 1981 District Court Order and cannot legally adjust the AMLs. We contend this is illogical and legally questionable.

The paragraph to which the respondent refers identifies problems with achieving AML in the Salt Wells HMA only, including size of the HMA, large number of wild horses in certain areas and very few in others, selective removal criteria, movement of wild horses between the Adobe Town and Salt Wells HMAs, etc. The commentor appears to assume that the horses are evenly distributed throughout this very large HMA. They are not. In fact, there are three concentration areas where horses can always be found. The intent of the statement was to demonstrate that in lightly populated areas of the HMA, removal of a few animals would be inefficient and would therefore, complicate the removal of horses to AML in the short term. The paragraph in no way suggests that the AML should be changed. Although most AMLs were originally determined in response to the District Court Order, they have all been re-affirmed or established via the land use planning process; thus it is not within the scope of this analysis to analyze changes to the land use plan. This EA analyzed the impacts of the Proposed Action, to implement actions to meet management objectives outlined in the land use plan, and the No Action Alternative, to not implement the Proposed Action.

The EA notes that annual aerial inventories of wild horse populations have been conducted in the Field Office area, this does not constitute a complete environmental assessment of the wild horse population as part of an "integral part of the natural system of the public lands" on which they live. It is impossible to determine how many horses, if any, must be removed. In order to truly understand the impact which wild horses are having on the HMAs, they must not be viewed in isolation. If attainment of a "thriving ecological balance" is truly the agency's goal, then it must equally evaluate the impact which all land uses are having on the area, be they wild horses, domestic livestock, other wildlife, etc.

BLM conducts annual inventories of wild horse populations to determine the number of wild horses occurring on public lands and to determine if excess horses exist that must be removed from the range to maintain established AMLs. During the land use planning process, all elements of the human environment (including wild horses, human use, wildlife, domestic livestock grazing, etc.) were evaluated to determine the most efficient use of public lands while maintaining the health of the land. During this process, limits on the numbers of livestock, wildlife, wild horses, human use, etc., were determined in order to maintain a healthy and thriving ecological balance. The purpose of this effort was to identify the impacts of implementing management actions to comply with the land use plan.

BLM provides a definition of "thriving natural ecological balance." It stresses the importance of ensuring the "good health" of wild horses and burros and "monitoring of the condition of the herd's habitat." However, nowhere in the definition is there reference to the domestic livestock and the significant impact of such animals on the habitat. This seems to point to the very core of some of BLM's worst policy problems (i.e., failure to truly recognize the highly unbalanced land-use system perpetuated by the agency where wild horses and burros are significantly outnumbered by domestic herds, while wild horses and burros take the lion's share of the blame for negative habitat impact). True ecological balance cannot be attained without taking an objective look at the whole picture.

> *Thriving natural ecological balance does reference other animals (e.g., domestic livestock and wildlife) and recognizes the importance of maintaining the health of the habitat for all grazing animals. BLM is charged with implementing multiple-use mandates as provided for by Congress, including domestic livestock grazing and maintenance of wildlife habitat. If wildlife are causing damage to resources, state agencies must take action to reduce numbers. Likewise, if domestic livestock are causing damage to public lands, actions are taken to correct the problem by changing management practices, or reducing or eliminating the livestock use. BLM is charged with managing wild horses and burros in conjunction with other uses, and is committed through the land use planning process to maintain the numbers of wild horses within planned for limits just as the BLM and the public expect livestock operators to limit their livestock to permitted numbers, kinds, and timing of use.*

The EA states that roundups will start no earlier than July 15, 1999 and continue until AML is achieved. This could run in perpetuity, something that is unacceptable. Must state the date that roundups will halt. We recommend a start date of August 1st at the earliest and would suggest pushing the date back as far as September 1st. This would assure the majority of foals are at least one month old, avoiding further the possibility of mare/foal separation and foal deaths. September 1st start date also would ensure that horses aren't run during the blistering August heat, a factor which will only add to trauma and stress.

> *The Proposed Action is to gather excess wild horses in order to achieve AML. This EA covers gathering operations during the summer and fall. A separate analysis will be prepared to cover spring operations. Over 1,700 excess wild horses must be removed from the range and a limited time exists in which to conduct gathering operations before severe winter weather sets in. It is not BLM's intent to harm these animals, and all conditions including weather, temperature, animal condition, topography, etc., are reviewed prior to the gathering operation. As stated in the Capture Plan, every effort is made to keep a mare and her foal together, even if it means dropping them out of the gather or dropping the entire band from the gathering operation. For most of the gathering operation, horses are allowed to travel at their own pace. Gathering operations commence at first light during the summer months to avoid gathering during the heat of the day. Most captured horses are at the sorting/holding facility by or shortly after 12:00 noon for all but the most remote trap locations. Temperatures in southwest Wyoming normally range from the mid 40s and 50s in the early morning to the low to mid 80s during the afternoon. Temperatures above 90 degrees are rare.*

The EA is unclear about sorting operations, either at the trap site or holding facility. We recommend that BLM sort at the trap so that returnable horses may be released without the stress of transportation to a holding site. The EA state(s) that foals 6 weeks and under will be sorted off and hauled separately then re-united with their mothers at the holding facility. How will the mares and foals be reunited?

> *All horses will be transported from the trap site to a sorting/holding facility. If BLM conducts the gather, the horses will be transported to the Rock Springs holding facility for sorting, aging, sex determination, etc. If sorting will occur in the field, a sorting/holding*

facility will be constructed (and may entail expanding a trap). Sorting foals off for transporting is done to protect them from injury. Horses are not held at the trap site (unless an emergency situation occurs such as a truck breakdown). Mares and their foals are reunited as quickly as possible and are separated for no more than 3 hours normally. Only those wild horses that have been sorted and that meet selective removal criteria would be shipped to cooperating BLM facilities for processing and only if the Rock Springs facility is at capacity.

It is likely that BLM will ship horses to cooperating facilities (page A-6). Identify the names and location of these facilities, number of horses they can hold, cost to be incurred by the BLM in contracting out to these facilities.

Only BLM facilities would be used if cooperating facilities are required. The facility most likely to be used would be in Salt Lake City which is approximately 195 miles from Rock Springs and has a capacity of 500 horses. This facility is managed by BLM and no additional costs would be incurred. Some wild horses, that meet certain criteria, may be shipped to the Wyoming Honor Farm in Riverton, Wyoming for training which makes them more adoptable. A contract is in place and the cost is $2.40 per horse per day.

Under the Wild and Free-Roaming Horse and Burro Act of 1971, wild horses and burros may be removed from the land only if "an adoption demand exists by qualified individuals." Does BLM honestly think it can place the estimated 1,750 horses to be removed from the Rock Springs area with responsible and qualified adopters?

BLM developed selective removal policy to remove wild horses most likely to be adopted. BLM works with organizations such as the Wyoming Honor Farm to domesticate certain wild horses to make them even more adoptable. There are BLM adoption facilities throughout the United States, and the "pipeline" is carefully monitored and managed by BLM to ensure supply and demand is balanced.

The EA states a veterinarian will not be on-site at the Rock Springs gathers but will be on call. How far away will he/she be from the gather site and how long will it take for him/her to travel to the site if the need for urgent veterinary care arises? According to a recent Memorandum of Understanding entered into by BLM and U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS), "APHIS will help ensure the presence of an on-site veterinarian during removal operations in the western states, where requested." The planned absence of such a vet at the forthcoming gathers suggests that BLM simply did not request such assistance from APHIS. Is this the case?

Most trap sites are within a maximum of one and one half to two hours from Rock Springs by motor vehicle. Our experience has been that there is very little need for an on-site veterinarian during routine gathers. Veterinarians are under contract to BLM in Rock Springs; should a need arise, contact can easily be made via cellular phone or radio. In addition, an APHIS veterinarian will be on site from July 15 through July 23, and may be there longer if necessary.

Toni Hutchenson Moore

There are several issues about which I have concerns. The main issue is the running of mares and young foals starting in July. The majority of foals will have reached approximately 6 weeks of age. From personal experience in Colorado, in September 1996, a 4-month old foal was run approximately 4 miles over rugged terrain. The injury to this foal was one seen by veterinarians on the race track when horses are run too far, for too long, at too early in their development. This foal may have been predisposed to this condition (i.e., long pasterns) but the stress of running during the roundup severely aggravated this condition and the foal was destroyed. Roundups should occur no earlier than September to prevent injuries and stress to the mares and foals.

As mentioned before, BLM has a limited amount of time to gather excess wild horses. All factors including climatic, topographical, animal condition, temperature, etc., are reviewed prior to gathering operations. Horses are allowed to travel at their own pace until close to the trap. Mares with foals that aren't keeping pace would be dropped from gathering; if the foal is separated from the mare and the mare can't be separated from the band, the entire band would be dropped from gathering operations. The intent of the BLM is to remove excess wild horses as humanely as possible.

Heat should be another factor in determining when the roundup should occur. Roundups in Northwestern Colorado as early as August have shown that flying time was not productive between 7:00 am and 11:00 am. Again, the majority of the wild horses will be in peak condition in the fall and better able to withstand the stress and distress of capture and transportation.

Gathering operations commence at first light during the summer months to avoid gathering during the heat of the day. Most captured horses are at the sorting/holding facility by or shortly after 12:00 noon for all but the most remote trap locations. Temperatures in southwest Wyoming normally range from the mid 40s and 50s in the early morning to the low to mid 80s during the afternoon. Temperatures above 90 degrees are rare.

I was unable to get a clear idea of the season of use by livestock from this document. Lack of current monitoring and inventory as mandated by NEPA was visibly absent and therefore these proposed actions are not in accordance with applicable laws. One EA for several roundups over a long period does not adequately supply the information needed to fully assess the situation. Information on the type of vegetation, growing season, and data on all grazing users must be supplied in the proposed document. Lack of available data published for public review as required by the NEPA process leads me to believe that the Rock Springs BLM is proposing an action on out-of-date information. Therefore, I am protesting this decision document.

Page 13 of the EA states that rangelands (including rangelands within HMAs) provide seasonal and yearlong grazing for domestic animals. This means certain types of livestock may use the range all year or a portion thereof. Monitoring of rangeland condition is a continuing process; inventories of vegetation types and carrying capacity have been done and are available for review at the Rock Springs Field Office. Vegetation types preferred by wild horses are found on page 14 of the EA. The Proposed Action is not to assess the condition of the wild horse habitat but rather to achieve and maintain wild horses numbers at planned for levels to limit the possibility of resource damage due to wild horses and to provide for other uses of the public lands. Discussions of vegetation, livestock grazing seasons of use, livestock numbers, and wild horse AMLs were provided in the land use plan. Ample opportunity was given to the public to participate during the land use planning process and all documents are available for public review. BLM believes the information found in the EA provides enough information to reach an informed decision on the Proposed Action.

Taurus Productions

I object to beginning roundups July 15th, assuming you can legally justify removing any horses. You state that the majority of foals will be around 6 weeks old at this time. I believe many will find it difficult to keep up with their mothers in a run across uneven to rugged terrain for up to 10 miles. When removals are required, based upon scientific monitoring, most roundup operations occur in the fall. Horses will be in peak condition and the majority of foals will be strong enough to survive the stress of a roundup if it is carried out in the manner described in the Capture Plan. These same concerns were voiced at the February meeting so you know that I object to your timing.

BLM has a limited amount of time to remove excess wild horses in accordance with the mandates of the Green River Resource Management Plan. Peak foaling occurs around

June 1st. BLM gathering will be in accordance with the Capture Plan and will not begin before July 15th, six weeks after peak foaling. Every effort will be made to keep mares and their foals together and all excess wild horses would be treated humanely. Horses will travel at their own pace and traps will be located on even terrain and constructed, in most cases, as close to the herds as possible. Wild horses would not be ran for 10 miles. Gathering of horses would not occur any further than 10 miles from a trap site and any movement of the horses would be at their own pace until close to the trap where a Parada horse would be released to lead the horses into the trap. Our experience is that, for all but the youngest foals, the foals have few problems keeping up their mothers. The Capture Plan (see page A-3, Appendix A) explains the precautions that will be taken to ensure foals and their mothers are not separated.

On Table 1, foals appear to be counted as one wild horse adult which seems grossly unfair considering the small amount of forage that a foal eats. Does one calf equal one adult cow? If not, why? Foals should not be considered as a full animal unit until they become old enough to consume measurable amounts of forage (i.e., yearlings). Therefore, the numbers of wild horses over AMLs should not include foals.

Foals are counted in the population census because if not removed, they will be one year old or older at the time of the next census and have roughly the same impact on the forage resource as an adult. You mention that calves are not counted when billed by the BLM. This is true for billing purposes. However the majority of calves or lambs do not return the following year since they are marketed at the end of the grazing season. Those that do return are to replace older, less productive cows (or ewes) that have been removed from the herd and will be under the same permitted numbers as the year before. The impact of livestock progeny does count during monitoring studies as does the impact of young, less than a year old, wild horses.

Page 4 refers to comments made at the February 8th public hearing. At that time, I made the comment that an AML of 69 or 77 or 100 is not high enough to insure the genetic diversity and long-term survival of the herd. I asked whether the Little Colorado HUA [HMA] was contiguous with other HMAs and you answered yes. I then asked if the Little Colorado horses interchanged with the horses in the adjoining HMAs and one of your specialists said that he had never seen the horses cross the river from the Little Colorado to the adjoining HMA. I hope someone remembers this because the EA misrepresents this situation by leaving out this critical detail. You state that "the presence of and potential for mixing of some wild horses from the White Mountain HMA should assure genetic viability." According to who? Certainly not the wild horse specialists for this area. I object to any horses being removed from the Little Colorado HMA because there will not be sufficient numbers of horses left to ensure genetic viability. When was the legal AML established for this area? Where is the current monitoring and inventory data that allows you to set that AML? What is the history of this HMA?

There are no natural or human-made barriers to wild horse movement across the Little Colorado and White Mountain HMAs which share a common boundary. The AML for the Little Colorado HMA was established in the Green River Resource Management Plan. The AML for this HMA was never brought forth as an issue by the public during the land use planning process. Monitoring data is available for review in the Rock Springs Field Office. The comment at the hearing February 8th was "there is not much movement between HMAs." BLM personnel involved in the preparation of this EA recently attended the Wild Horse and Burro Population Viability Forum in Fort Collins, Colorado. It was clear from information obtained at this forum that as small a movement as two breeding horses every few years would ensure genetic viability (Wild Horse and Burro Population Viability Forum, Fort Collins, Colorado, April 21, 1999). Although not supported by specific observation, the proximity of the areas and the absence of barriers led us to believe movement is sufficient to maintain viability. As outlined in the Capture Plan, blood samples will be taken and analyzed for genetic viability. If the results indicate a problem, then new genetic material will be introduced into the HMA.

Where is the current monitoring and inventory data? NEPA requires monitoring and inventory data which I do not find in the document. The lack of current monitoring and inventory data alone is reason to postpone any roundups until such data is produced and ample opportunity given for review by all interested parties.

> *Monitoring and inventory data are available at the Rock Springs Field Office. Current wild horse inventory data were supplied in Table 1 on page 2 of the EA. The type of information that you are requesting be included in the EA is more relevant to the establishment of the AMLs which is not a part of the Proposed Action. Discussions of vegetation, livestock grazing seasons of use, livestock numbers, and wild horse AMLs were provided in the land use plan. NEPA requires the use of the best available data but does not require that new data be generated for actions where impacts are considered insignificant. Monitoring of the range condition is a continuing effort and is done in conjunction with other programs.*

To conclude on the issue of the Little Colorado HUA, you state on page 4 that 77 head will remain on the range. Then on page A-7, you talk about removing 113 wild horses. If the total number of horses on the Little Colorado after foaling is 182 as stated on page 2, and you remove 113, then you have 69 animals remaining. Your EA fails to explain how in an area of 519,541 acres, it is necessary to have only 69 horses so as to maintain a thriving natural ecological balance. How many cattle graze on this acreage and in what seasons? Without this information, wild horse removals can not occur. What ever happened to managing "principally but not exclusively" for wild horses as stated in the law? These horses need to be managed in a manner consistent the law.

> *BLM made no reference to lowering the population to 77 horses. The numbers displayed in Table 1, page 2, are consistent with those found in Appendix A, page A-7. The Proposed Action is to remove sufficient wild horses to achieve the low end of AML after gathering. This would require the removal of approximately 113 horses with 69 remaining in the HMA. Managing principally for wild horses may apply to wild horse ranges but the Rock Springs Field Office area is not a designated "horse range." This mandate does not apply to HMAs where wild horses are to be managed in concert with the other multiple-use mandates for public lands managed by BLM. Grazing allotment data is available for review at the Rock Springs Field Office.*

Regarding the Salt Wells HMA. On page 19, you write that the loss of the oldest horses in the population will not affect the herd in the long term, stating "it is unlikely these animals were still reproductively active." You fail to document what data or research support this statement. I have seen mares in the later stages of life reproducing on the Pryor Mountains of Montana. Joel Berger reports of mares reproducing at age 22 which is old for a wild mustang. Research also shows that mares who are active reproducers as young females tend to be reproductively active throughout their lives.

> *It is highly unlikely that horses that are removed from the population by natural mortality would have been reproductive in their last year. This is especially true for aged stallions. It is true that older mares in good health are very fecund, but animals in good health aren't the ones that will be lost to the population due to age and other natural factors.*

On page 20, you state "[t]here is no long-term adverse impact on wildlife." You cite no sources that support this statement.

> *Achieving and maintaining wild horses at AML will have no long-term adverse impact on wildlife. Maintaining AML will eliminate or prevent unnecessary competition between big game species and wild horses for available forage. This statement has the concurrence of BLM's Wildlife Biologists in the Rock Springs Field Office, and the Proposed Action is supported by the WGFD.*

On page 23, you state that "wild horses are large, aggressive and can easily dominate preferred habitats when they are limited by scarcity or competition." According to what source are wild horses aggressive? Later in the paragraph, you list species to be negatively impacted by increased numbers of wild horses. What is your documentation for making these statements? I object to the timing of roundups, gathering of any wild horses on the huge Little Colorado HMA, and the misrepresentation of the facts regarding the Little Colorado HUA, the lack of data supplied in the EA, and near total lack of substantiation of statements in this document.

These statements were written and reviewed by BLM Wild Horse Specialists who collectively have many, many years experience working with and around wild horses. The manner by which a stallion gains control of a harem of mares is to dominate (be aggressive toward) other potential herd stallions. Only the most aggressive stallions are rewarded with breeding rights. Within the mares, there is a hierarchy or pecking order with the most dominant mare showing aggression to all subordinate mares. Wild horses are the largest mammal inhabiting public land in the planning area which provides them with a special advantage in competition for scarce resources. Personal observation by BLM employees, of wild horse interactions with other hoofed mammals at water holes during drought are the basis of the statement. If wild horses populations are allowed to grow unchecked, impacts to the species identified in the EA would be considered negative and significant. All large grazing animals are regulated in some manner, whether by number of hunting licenses issued or other management practices such as limiting the number of domestic livestock allowed under a grazing permit. Removal of excess wild horses is the only acceptable method of population control available at the present time. Wild horses are hardy, competitive, and adaptable. These very characteristics make them successful in a wide variety of habitats.

Schurbert & Associates on behalf of Fund For Animals (FFA)

A careful review of the DEA [EA] reveals that it falls far short of providing the level of environmental analysis necessary to comply with NEPA. It is woefully incomplete, contains numerous factual statements which are not substantiated, analysis of alternatives is deficient, and the evaluation of the environmental consequences of the actions fails to identify critical impacts. The entire analysis is compromised by BLM's incorrect interpretation of the applicability of the 1981 District Court Order in Mountain States Legal Foundation and Rock Springs Grazing Association v. Cecil Andrus, (WY District Court C79-275K, 1981) to the ongoing management of wild horses in the Rock Springs Area. BLM uses the Order to continue to justify maintaining wild horse populations at low levels without providing any evidence to demonstrate that the AMLs established for horses are consistent with maintaining a thriving ecological balance.

FFA urges BLM to abandon its current plans until and unless it prepares a comprehensive analysis to evaluate such a large scale removal program. This analysis must provide inventory data and other documentation necessary to prove that the management strategy is sound and consistent with relevant federal laws.

BLM disagrees with the respondent's interpretation of the 1981 District Court Order. The Interior Board of Land Appeals affirmed the District Court Order in 1991. The Court gave BLM two years to implement the Court findings. In addition, BLM completed the land use plan in 1997 where the public was given ample opportunity to participate in the process. The land use plan set AMLs. BLM maintains that it has completed a comprehensive analysis of the impacts of the Proposed Action and the No Action Alternative in compliance with NEPA, that enough information has been provided to make an informed decision, and that achieving and maintaining AML is sound management of public resources.

The opportunity for public comment is a meaningless, makework exercise which will have no bearing on the BLM's decision-making process. The entire analysis is premised upon BLM's

misplaced belief that the 1981 District Court Order is still valid and controlling. On page 3 of the DEA, BLM concludes ignoring existing policy, planning decisions, and agreements reached pursuant to the District Court Order are not considered options nor are they within the scope of this EA." BLM takes the position that they have no choice but to remove approximately 1,750 horses to comply with the Order. Instead the EA only includes the preferred alternative and a no-action alternative which is meaningless conveniently limiting the BLM's decision to the preferred alterative. BLM continues to hide behind an antiquated Court Order to justify removing 1,750 wild horses but a review of the actual Order and its amendment demonstrates that it no longer controls management of wild horses in this area. BLM used the horse numbers agreed to by the RSGA and wild horse advocacy groups as the baseline during preparation of the Green River Resource Management Plan. There is no evidence to suggest that these numbers were based on maintaining a "thriving ecological balance" as required. BLM has not provided documentation in either the DEA or the land use plan to substantiate its claims that the current AMLs for wild horses are consistent with the standards of the Wild Free-Roaming Horse and Burro Act. FFA remains unconvinced that the existing AMLs are legal. BLM has no choice but to terminate all plans for the July 15th roundups, withdraw the DEA, and prepare a new, more comprehensive NEPA analysis which must include a reevaluation of the wild horse AMLs for the area.

> *BLM has completed the land use planning process, which entailed consultation with numerous affected interests, and analysis of monitoring data, wildlife use and other resource values. The AML numbers were not a subject of controversy during the land use planning process. The AML numbers were based on all information available at that time and in consideration of the District Court Order. The Proposed Action is to implement actions necessary to conform with the land use plan. Public comments on the EA have been given full consideration in preparation of this Decision. The No Action Alternative was analyzed to document the impacts of not removing excess wild horses. During the land use planning process, all elements of the human environment (including wild horses, human use, wildlife, domestic livestock grazing, land ownership, etc.) were evaluated to determine the most efficient use of public lands while maintaining the health of the land. During this process, limits on the numbers of livestock, wildlife, wild horses, human use, etc., were determined for maintaining a healthy and thriving ecological balance. Ample opportunity for public participation in the land use plan was provided. Also, the issue of reevaluating the AMLs during the preparation of the land use plan was not brought forth by the public. The purpose of this effort was to identify the impacts of implementing management actions to comply with the land use plan. The land use plan was analyzed under an environmental impact statement (EIS). Thus, the AMLs were analyzed in an EIS. The Proposed Action is to remove wild horses that exceed the established AML in conformance with the land use plan. Current monitoring data indicates no change to the AML is necessary.*

The DEA fails to disclose all information relevant to the management and proposed removal of wild horses and fails to properly evaluate the environmental impacts of its proposed action on wild horse populations in the Rock Springs area. The DEA identifies the number of horses that may be removed, assures the public that the planned removals are consistent with maintaining a thriving ecological balance, preserving genetic viability of the herd, and claiming the removals will not affect the long-term survival prospects of horses in individual HMAs, the DEA provides no data to substantiate these claims. There is not a single scientific study cited to support any of the factual statements. This is not consistent with the intent of NEPA which requires that information be of "high quality" (40 CFR 1500.1(b)).

> *BLM believes that all impacts relative to the Proposed Action and No Action Alternative are adequately addressed in the EA. This EA was written and reviewed by BLM specialists who have many years experience working with wild horses and NEPA compliance. One study was cited on maintaining genetic viability within a big horn sheep population, and information presented at the recent Wild Horse and Burro Population Viability Forum*

was considered. BLM used the best available information in preparing the EA and maintains that enough information has been provided to make an informed decision. If you believe that BLM is wrong in its conclusions, you are welcomed to submit supporting documentation for our review.

The DEA fails to provide a sufficient explanation of the checkerboard land jurisdiction and how that influences management decision for cattle, wild horses, and wildlife. More detailed maps should have been included with the DEA. Surely BLM maintains detailed maps of each HMA which should be attached to the DEA to provide a better understanding of where the checkerboard lands are located in relation to solid blocks of public and private lands. Understanding these relations is critical to establishing appropriate wild horse management policies. Such information could aid the public in understanding the need for or lack thereof, for wild horse removal and may aid the public in developing and proposing alternative management strategies to further consolidate private and public lands through potential land swaps, acquisition efforts, or to provide wild horses with unrestricted access to private lands through conservation easements. Management of cattle grazing is also critical to evaluating the proposed wild horse management strategies. We believe that BLM administers grazing allotments on these checkerboard lands by combining the public with the private lands into grazing allotments. Without combining the public and private lands into an allotment, it would impossible to separate the public from the private lands without construction of significant amounts of fencing. If public and private land are combined into a public grazing allotment for the purpose of cattle grazing, it would not appear to be proper to distinguish between private and public lands when considering wild horse management. If management of cattle on checkerboard lands is administered as if the lands were public, it would follow that management of horses on such lands should also be administered as if the horses occupied public lands alone. Due to the lack of information about BLM policies in managing these checkerboard lands in the DEA, it is impossible to understand how wild horses management strategies differ, if at all, between public, private, and checkerboard lands. Understanding these differences is critical to providing informed and substantive comments on the DEA in regard to wild horse management in the area.

A map showing the wild horse HMAs and their relationship to the checkerboard lands can be viewed on the internet at ***http://www.wy.blm.gov/currentnews/wildhorses/WILDHORSEADOPTION.HTML*** *(click on maps). BLM has also provided a map reflecting HMAs and checkerboard lands at the end of this document. If the respondent desires more detail, hard copy maps containing land status, roads, geographic landmarks, and topography at the 1:100,000 scale are available to the public for $4.00 each. Maps may be ordered from the Wyoming State Office or the Rock Springs Field Office. Upon request, a listing of the relevant maps for HMAs in the Rock Springs Field Office will be provided.*

Forage on private lands within grazing allotments is recognized through a percentage (on an AUM [animal unit month] basis) of federal range. If an allotment is 50 percent federal range as is approximated in the checkerboard lands, the number of livestock to be grazed is set based on the total forage available on both public and private lands but the operator is billed for 50 percent of the total. The livestock operator is restricted to the total numbers of livestock allowed on the permit and the season of use on the permit, whether they are on public or private land within the allotment. This is in accordance with the Taylor Grazing Act and the grazing regulations. In areas where agreement with private land owners has been reached, wild horses are also managed as if there was no difference between public and private land. In accordance with the Wild and Free-Roaming Horse and Burro Act and the wild horse and burro regulations, landowners are not prohibited from allowing wild horses to graze on private land, but they may also request that all horses be removed from private land. Without agreement from private landowners, wild horse management on checkerboard land would be impossible. Where wild horses are managed on checkerboard lands, the total use of forage by all animals cannot exceed the total forage available on both public and private lands.

The DEA contains no information to substantiate the legality of the AMLs established for the different HMAs. Establishment of AMLs is intended to meet the standard imposed by the Act [Wild and Free-Roaming Horse and Burro Act] of maintaining a "thriving ecological balance." This balance applies to the management of wild horses and burros in relationship to cattle, wildlife, and the health of the range. FFA believes that BLM in administering the wild horse program has neglected to preserve the balance required by the Act by, in many cases, giving preference to cattle over wild horses. It is for this reason, FFA suggested during scoping that BLM evaluate previous wild horse removals and how those removals influenced livestock AUMs. Far from having no bearing on the current proposal as claimed by BLM (page 5, item 3), such analysis is directly pertinent to the current proposal and other wild horse management proposals because it would establish whether the BLM is properly administering the Act. In calculating AMLs for an HMA, BLM must consider cattle, wildlife, and wild horse numbers, ecology, and forage requirements, as well as rangeland condition. Except for an estimate of wild horses in the HMAs, the DEA provides no additional data on cattle or wildlife numbers, ecology, or forage needs, nor does it contain any rangeland monitoring or inventory data. Lack of data ensures the public has absolutely no way of assessing the adequacy or legality of the AMLs established for individual HMAs. The mere fact that AMLs were established or confirmed in the Green River Resource Management Plan does not address this void in the DEA. Rangeland inventory, cattle, and wildlife data supposedly used in establishing the AMLs were not including the Plan and, for that matter, FFA has never seen the data and does not believe that the data, assuming it exists, has ever been published in a document which has been subject to public scrutiny. NEPA requires such data be included. Cattle and wildlife management are part and parcel of wild horse management. Within HMAs, the management of cattle, wildlife, and horses cannot be examined independently but must be considered in combination. FFA asked that this information be disclosed in its scoping comments. If disclosed, members of the public could determine that the AMLs are established at far too low a level because of the bias by BLM towards facilitating and promoting livestock grazing. If the data used to define the AMLs were disclosed, it would allow the public to assess the adequacy of the data itself and the methods used to collect the data. Although the law requires public land inventories to be ongoing, if rangeland monitoring or inventory data from the 1980s or early 1990s is being used to establish the AMLs, such old data may not reflect current rangeland conditions, preventing an accurate determination of AMLs to ensure a "thriving ecological balance." If it were determined that the AMLs were too low, this could impact the number of horses, if any, required to be removed to maintain "thriving ecological balance." Until and unless these data are made available for public review, the BLM cannot initiate wild horse management actions which are based on unsubstantiated AMLs.

> *All rangeland monitoring and inventory data are available for public inspection. The respondent may disagree with the established AMLs but as stated in other responses, AMLs were established or re-affirmed during the land use planning process. The public was given ample opportunity to participate during this process and the issue of AMLs was never brought forth by the public. Changing the land use plan is beyond the scope of this analysis. The Proposed Action addressed the impacts of achieving and maintaining the AMLs for the HMAs in conformance with the land use plan and was not intended to revisit planning decisions less than two years old.*

The DEA does not provide sufficient information for the public to determine if the proposed management strategies will preserve the genetic integrity of any wild horse herds in the country to permit removals without potentially adversely impacting the genetic health and viability of the herds. Instead of continuing to engage in horse removals from public lands which may be negatively impacting the genetics of the wild horse populations, BLM should initiate a comprehensive effort to gather sufficient blood and other samples from wild horses to determine the level of homozygosity or heterozygosity in the herds. After analysis of those data, BLM could then potentially identify management strategies which would ensure protection of the genetic variability in the population. The DEA must include additional information about effective population size for wild horses. The DEA demonstrates that much is unknown about

wild horse population ecology, suggests that some experts believe the effective population size is 50 breeding adults, some say it may be as high as 100 breeding adults, and others claim that the addition of two horses to a population every few years is sufficient for protecting the genetic viability in the herd. BLM should provide citations for these statements and needs to include more detailed discussion of how the effective population size affects the management of wild horses. Without determining what the effective population size is for wild horse herds, it is impossible to determine if any of the existing AMLs are sufficient. It is likely the Little Colorado HMA AMLs of 69-100 is far too low to protect the genetic variability in the wild horse herd in that area. BLM has proposed to manage each herd to achieve the low range of AML raises additional concerns about the sufficiency of these numbers to preserve the genetic variability in these herds.

> *While genetic information relative to wild horse herds in the Rock Springs Field Office area is lacking, several factors have led us to our conclusions in the EA. The AMLs for all HMAs except the Little Colorado are well above recommended minimum populations for isolated populations of rare species. The Little Colorado is at or near the threshold for a minimum viable population of isolated species. However, none of the HMAs in the Field Office area are totally isolated from other wild horse populations. Where genetic research has been done on common herds of wild horses, there has been a wide range of genetic markers associated with these herds that give them a great deal of heterozygosity. Unlike the inbreeding involved in the production of a breed, such as the American Quarter Horse, wild horses have many breeds in their genetic background and are more genetically diverse than any one breed. With selective removal, a larger proportion of the population will be of breeding age due to the removal of younger non-reproductive animals and the return of older reproductive animals. It is true that a minority of the stallions do the majority of the breeding, whether the wild horses are gathered or not. However, due to the rigors of maintaining dominance and the presence of bachelor bands, other stallions do breed. This competition results in additional genetic contributions to the herd from the male side. BLM has observed that over time there is turnover in the individual mares that an individual stallion controls; therefore, he is not always breeding the same mares each year. The Capture Plan (page A-2) states that blood samples of some released wild horses for each HMA will be collected for typing and DNA analysis. This baseline data will be compared against samples collected every five years to determine if population sizes are effective.*
>
> *There is no agreement within the scientific community on how many wild horses it takes to maintain a genetically diverse and viable herd. No one knows for sure which is why BLM acknowledged this in the EA (see EA, page 4). BLM maintains the best available information was used in writing this EA. If the respondent has additional data, BLM would like to review it.*

The DEA must provide additional information and analysis about the impacts of the proposed removals on the age and sex structure, social dynamics, and survival of the wild horse population. Under the provisions of the selective removal criteria the proposed strategy requires the removal of all horses from 0-5 years old and permits the removal of all horses between 6-9. In all HMAs except the Salt Wells HMA, some younger aged horses may be returned but the DEA does not provide actual numbers. Such selective removal will clearly skew the age structure of the surviving animals towards the older age classes and may adversely affect herd production. If such removals occur for multiple years, entire cohorts of younger aged (0-9) animals my ultimately be removed. The sex structure of the herd could also be affected. Considering the social and breeding dynamics of a wild horse population, it is important to maintain an appropriate sex and age structure in the herd to ensure that production continues and that the most fit animals, both stallions and mares, continue to breed. Roundups of wild horses may disrupt existing horse bands, forcing older stallions to attempt to reform their bands with those horses remaining after a roundup. This may impact population production. The impact of roundups to the social structure of a horse herd and strategies to identify and protect wild

horse bands during roundup activities have never been sufficiently evaluated by BLM. Selective removal of younger aged animals could also ultimately impact the fitness of the herd by allowing less fit animals to breed due to the removal of more fit horses, particularly stallions, who otherwise would have controlled access to the mares. The DEA attempts to assure the public through the use of population models that the proposed management strategies will not adversely impact the long-term survival of the wild horse herds. Population modeling is an inexact science which can be manipulated to produce desired results. The DEA identifies the scientist who developed the model used for this analysis, no additional information about the model, its accuracy, or its assumptions are provided. Since data are not always available to quantify every parameter within a model, assumptions are frequently relied on to substitute for such data. If the public is to assess the legitimacy of the claims made in the DEA which are based upon the model, such additional information must be disclosed. Information in Appendix D does not provide such an analysis. Though the model is intended to predict the impact of removals on long-term survival of the horse herds, no variables are included to factor in natality or age-specific mortality. Wild horses are considered extremely hardy animals, surely some mortality occurs as a result of injury, accidents, predation (to a limited degree), and climatic factors. At the same time, annual productivity must be considered in relation to mortality to understand the trend in the size of the population. Without a more detailed description of the model, including a discussion of its assumptions, weaknesses, and strengths, the accuracy of the modeling results cannot be evaluated.

> *BLM maintains information on the age and sex structure of the herds from previous years. The only opportunity to collect this data for existing herds is from captured horses. In order to assess the current status of these parameters, horses must be gathered for determination of sex and age. The current selective removal criteria may shift the sex ratio toward the male if all horses are removed. Some younger mares will be released where younger horses are being returned to the range. These criteria are age dependant and will cause a shift in the age class structure. The population modeling included in Appendix D of the EA demonstrates that even with the removal of all horses captured in the 0-5 age class, the herds remain viable over the next 10 to 20 years. This is partly due to the fact that not all animals in the 0 - 5 age class are captured in any given year. Additional assumptions used in the modeling are included in Appendix E.*
>
> *Horses in the 6 - 9 age class can only be removed from areas outside HMAs. As wild horses are not being managed in these areas, there will be no impact on populations within the HMAs. The return of horses over 5 years of age in fact returns the most fit animals to the range for reproduction. In very few instances are many stallions in the 0-5 cohort actively breeding. The competition for mares and dominance has selected the most fit stallions and they are predominantly older than 5 years.*

The DEA fails to disclose information about the environmental impacts, including cultural resource impacts, which may be adversely impacted by trap construction and use. Based upon the description in Appendix A, it appears that there are several permanent traps already existing within the HMAs but that a number of additional, temporary traps, would be needed to accomplish the proposed action. Not only does the DEA provide no analysis of the impact of the existing or additional traps on the environment, but it concedes that cultural resource clearances at potential traps have not been completed. The impacts of the traps and trap construction, including cultural resource impacts, are part and parcel of the proposed action and must be disclosed so that the public can understand all impacts associated with the action and can submit informed comments.

> *BLM is committed to conducting a cultural inventory prior to use and/or construction of traps. Should the inventory disclose the presence of cultural resources, appropriate mitigation including non-use or relocation of the site will be applied.*

The DEA provides no analysis of the potential impacts associated with chasing, capturing, and handling wild horses during the summer months. While Appendix A provides some details

about how the capture and handling process would be conducted, there is no analysis of the potential impact to the safety and health of individual horses, including mares with young foals, in the DEA. Given the day-time temperatures common to southern Wyoming during the summer, the helicopter chasing, capture, and handling of horses in high temperatures could lead to adverse impacts on the health of individual animals. It is indisputable that such roundups subject wild horses to substantial stress which in turn, will be exaggerated even further by the climatic conditions. The DEA must provide more detailed analysis of how the proposed capture operation is likely to affect the health and well-being of individual horses given the climatic conditions of southern Wyoming during summer.

> *The average maximum temperature for the month of July in Rock Springs, Wyoming is 86.4 degrees and the average minimum temperature is 51.8 degrees. In August, it is 83.7 and 49.5 degrees, respectively. Roundups occur early in the morning and are usually completed by mid-morning. Horses are at the sorting/holding facility, where water and food is available, by 12:00 noon or shortly after. All conditions including temperature, topographic features, etc., are reviewed prior to gathering operations. Temperatures will vary depending upon the elevation of the trap site and the time of the morning.*

The BLM has failed to consider a reasonable range of alternatives in the DEA. NEPA requires federal agencies to identify and assess a reasonable range of alternatives (40 CFR 1500.2(e)). BLM's misplaced belief that the 1981 District Court Order remains valid and controlling has limited the analysis of alternatives to the preferred alternative and a no-action alternative. In reality, the no-action alternative is also meaningless because it cannot be chosen since, according to the BLM, it would not be consistent with the Order. BLM is left with one choice and that is to implement the preferred alternative. Such limited analysis of alternatives is entirely inconsistent with NEPA. Other alternatives should have been considered in the DEA including fertility control to reduce or prevent reproduction in the wild horse herds. This alternative was suggested during scoping but was rejected by BLM because it claims that the vaccine is still under development (DEA at page 5). This is not true. An immunocontraceptive vaccine is presently being used by the Humane Society of the United States on free-roaming horses in Nevada. Thus, the possibility of using fertility control should have been considered as an alterative or as part of an alternative. The prospect of evaluating fertility control in a separate analysis (DEA at page 5) is not adequate since this option, which is clearly reasonable, should have been discussed in the DEA. Another alternative which should have been considered is the closure of cattle grazing allotments or the consolidation of private lands to increase the amount of contiguous public lands available for horses. BLM states closing cattle grazing allotments is not feasible because it would result in an unacceptable economic impact on the cattle producers. No information is provided to substantiate this claim or to quantify the severity, or lack thereof, of the impact. Nor does the DEA provide an analysis of alternative strategies which could mitigate whatever losses may occur including the possibility of permitting displaced cattle to be grazed on BLM currently closed to grazing. Because the checkerboard land ownership pattern creates a unique and complicated relationship between wild horses and cattle, consolidating the public and private lands through land exchanges may ultimately benefit both the cattle producer and wild horses by creating larger block of private and public lands, BLM could consider as an alternative the establishment of the AMLs for horses in the HMAs. Since the 1981 District Court Order is no longer controlling and since BLM has not published the data that it has relied on to establish existing AMLs, review and determination of new AMLs would be timely and appropriate.

> *NEPA requires consideration of <u>reasonable</u> alternatives, not every alternative. BLM did not consider fertility control because it is under development and the vaccine or approval to use the technique is not available for the Rock Springs Field Office. The studies referenced by the commentor are field trials to analyze the effectiveness of the vaccine. Moreover, gathering would still be required in order to inject the vaccine into the mares, and the vaccine would not result in the immediate achievement of AML, it would only reduce the number of prospective horses. BLM is directed by the Wild Horse and Burro*

Act to gather excess numbers of wild horses where an excess is determined to exist. An excess number of horses is that number which exceeds the requirements of thriving ecological balance, generally the AML number set as part of the land use planning process. BLM does plan to analyze a fertility control option under a separate analysis. Closure of HMAs to livestock grazing was considered as an alternative but was dropped from further analysis because the alternative would not be in conformance with the land use plan which allows livestock grazing within HMAs. In addition, significant portions of the HMAs are in checkerboard lands where closure to livestock grazing would simply not be reasonable. Analyzing land exchanges as a possibility for creating different AMLs is not appropriate. Such a decision is more appropriate to the land use planning level. The Proposed Action is to conform with the existing land use plan.

The DEA is not sufficient for evaluating the environmental impacts of the proposed action; an EIS is necessary. NEPA requires federal agencies to consider the significance of the impacts of a proposed action in determining whether an EIS provides the appropriate level of impact analysis. Significance of an action, as defined by NEPA, includes both the context in which the action is to occur and its intensity. Though the action is limited to southern Wyoming, the context of the action is both local and national because of the importance of wild horses and the preservation of wild horses to Americans. Considering that the proposed action calls for removal of 1,750 horses from southern Wyoming, the significance of the impacts are both national, regional, and local. Intensity refers to "the severity of the impact" (40 CFR 1508.27(b)). Under NEPA there are 10 factors which the agency must consider when evaluating the intensity of the action including impacts that are both beneficial and adverse, unique characteristics of the geographic area which includes proximity to historic or cultural resources or ecologically critical area, impacts likely to be highly controversial, impacts highly uncertain or involve unique or unknown risks, may cause the loss or destruction of significant cultural resources, may adversely affect a threatened or endangered species, threatens a violation of multiple federal laws namely the Wild Free-Roaming Horse and Burro Act and the National Environmental Policy Act. With respect to listed species, the DEA provides no analysis of the potential impact of the proposed action of federal or state listed imperiled species. BLM is required by the Endangered Species Act to engage in, at a minimum, informal Section 7 consultation to assess the impact of its proposed action on listed species. There is no evidence provided in the DEA to suggest that BLM is complying with the mandate.

BLM concludes that implementing the Proposed Action is in conformance with the land use plan (which was analyzed in an EIS) and would not result in significant impacts to critical and non-critical elements of the human environment. BLM committed to certain requirements including cultural surveys; threatened, endangered, candidate (now proposed for listing), and sensitive plant and animal surveys; avoidance of active raptor nests, active sage grouse habitat, riparian areas, and wetland areas; and wilderness study areas, along with other requirements such as not gathering if conditions are so wet that resource damage could occur. BLM is required to conduct Section 7 consultation if and when it determines there may be an impact to a threatened, endangered, or to a species proposed for listing. For the action of gathering excess wild horses in conformance with the land use plan and by applying committed measures, BLM determined such a consultation is not required.

BLM must withdraw the present DEA and begin preparation of a new environmental document, preferably an EIS, if it intends to go forward with the proposed action. The DEA does not fully disclose all relevant information, does not properly evaluate the environmental impacts of the proposed action, fails to consider a reasonable range of alternatives. Of particular concern is the ongoing refusal by BLM to disclose cattle, wildlife, and rangeland monitoring data which it claims it has used to establish the wild horse AMLs in these HMAs. Since these data have never been disclosed in any document that the FFA is aware of, the legitimacy and accuracy of existing AMLs remains in question. Given the importance of wild horses to the American public, the public must be provided full disclosure of all information relied on by the BLM to

manage America's wild horses. The DEA is fatally flawed because of BLM's misplaced and incorrect belief that the 1981 District Court Order remains valid and controlling over wild horse management in the Rock Springs area. Until BLM recognizes that the Order is not controlling and that the horse numbers agreed to by the RSGA and wild horse advocacy groups are no longer relevant, it will not be able to develop a legitimate or publicly acceptable wild horse management program. Though evidence strongly supports preparation of an EIS, even if BLM does elect not to prepare an EIS, it must terminate plans to begin the capture operation in mid-July until and unless a for more substantive EA is prepared.

BLM concludes that the present EA is adequate and finds no compelling reason to prepare an EIS. The EA discloses the best available information, documents the impacts of Proposed Action and No Action alternatives, and considers a reasonable range of alternatives. Conclusions reached in the analysis were based on monitoring data located at the field office which is open to public inspection. Moreover, the EA and this Decision are tiered off the Green River Resource Management Plan and its accompanying EIS, which analyzed the impacts for all of the values referenced by the commentor. The Proposed Action is in conformance with the land use plan. BLM agrees that wild horses are important to the American public just as other resources including wildlife, livestock, recreation, and energy commodities are important to the American public. Because of the importance the public places on wild horses and other resources, it is important that BLM maintain the habitat for all uses.

This page intentionally left blank.

APPENDIX D

ERRATA SHEET

This errata sheet is a clarification of certain aspects of the EA that resulted from questions raised in the comments received.

Page 1, 1st paragraph, add the following sentences to the end of the paragraph: The purpose of this action is to implement the AMLs set in the 1997 Green River RMP. It is not to reconsider decisions made in the 1997 RMP. Decisions made in the 1997 RMP may be revisited in future revisions or amendments to the RMP.

Page 9, 2nd paragraph under ALTERNATIVES CONSIDERED BUT DROPPED FROM FURTHER ANALYSIS section, revise the 3rd sentence to read: If all or parts of the herd management areas were closed to livestock grazing, a substantial amount of fencing would have to be constructed to keep wild horses and burros off of private lands. Add the following sentence to the end of the paragraph: Such fencing would result in the elimination of private forage available to wild horses which would probably result in a reduction of the number of wild horses that could be maintained on the HMAs.

Page 30, under LITERATURE CITED section, add the following citation:

Bureau of Land Management, 1999. Wild Horse and Burro Population Viability Forum, Current Events Population Viability, Fort Collins, Colorado, April 21, 1999, National Training Center Course Number 4700-03.

Appendix D, Page D-2, Table, the Sex Ratios used in the Population Modeling should be 45% Male, 55% Female. The Age Class should be 40% (0-5), 60% (6-20+).

Appendix D, Pages D-8 and D- 15, the Sex Ratios displayed are Females (55%), Males (45%).

This page intentionally left blank.

APPENDIX E

ASSUMPTIONS USED IN POPULATION MODELING

In addition to the information listed in appendix D of the EA, the following assumptions were used in the population modeling.

SURVIVAL PROBABILITIES

Age	Females	Males	Age	Females	Males
0	0.955	0.898	13	0.946	0.946
1	0.967	0.958	14	0.944	0.944
2	0.968	0.972	15	0.942	0.942
3	0.965	0.972	16	0.939	0.939
4	0.966	0.946	17	0.933	0.934
5	0.939	0.938	18	0.922	0.927
6	0.981	0.972	19	0.915	0.916
7	0.940	0.924	20	0.899	0.901
8	0.915	0.935	21	0.876	0.878
9	0.981	0.971	22	0.845	0.848
10	0.947	0.948	23	0.804	0.808
11	0.947	0.947	24	0.755	0.761
12	0.946	0.947	25	0.000	0.000

PROPORTION OF MARES FOALING AT EACH AGE

Age	Foaling Rate	Age	Foaling Rate
0	0.000	13	0.670
1	0.000	14	0.670
2	0.260	15	0.670
3	0.540	16	0.670
4	0.680	17	0.670
5	0.680	18	0.670
6	0.760	19	0.670
7	0.760	20	0.670
8	0.760	21	0.670
9	0.760	22	0.670
10	0.760	23	0.670
11	0.670	24	0.670
12	0.670	25	0.670